

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
(Houston Division)

MEHDI CHERKAOUI,

Plaintiff,

v.

SANTANDER CONSUMER USA, INC.,

Defendant.

Civil Action No. _____
(Removed from the District Court of Harris
County, Texas, Cause No. 2013-03258)

NOTICE OF REMOVAL

Defendant Santander Consumer USA, Inc. ("Santander" or "Defendant"), pursuant to 28 U.S.C. §§ 1441 and 1446, hereby notices removal of the state court civil action known as *Mehdi Cherkaoui v. Santander Consumer USA, Inc.*, Cause No. 2013-03258, from the 270th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division, and in support thereof states as follows:

1. As more fully set forth below, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction). Therefore, this action is removable pursuant to 28 U.S.C. § 1441.

2. Consistent with 28 U.S.C. §1446(a) and Local Rule LR-81, Defendant attaches true and correct copies of the following Exhibits:

- A. an index of the matters being filed;
- B. a list of counsel and parties;
- C. a copy of Plaintiff's Original Petition;
- D. a copy of the executed service of process of Plaintiff's Original Petition;

- E. a copy of Plaintiff's Amended Petition;
- F. a copy of the executed service of process of Plaintiff's Amended Petition; and
- G. a copy of the case docket sheet from the 270th Judicial District Court, Harris County, Texas.

3. On or about January 17, 2013, Plaintiff, Mehdi Cherkaoui ("Plaintiff") filed a Petition against Defendant in the District Court of Harris County, Texas. On January 22, 2013 a copy of the Petition was sent to Defendant's registered agent via certified mail.

4. On or about January 24, 2013, Plaintiff filed an Amended Original Petition in the District Court of Harris County, Texas, which was sent to Santander's registered agent on February 8, 2013.

5. Except for the notice filed with respect to this Notice of Removal, as of the date of this filing, no pleadings or motions other than the Petition and Amended Petition have been filed.

6. Plaintiff asserts a cause of action under the Telephone Consumer Protection Act, ("TCPA"), 47 U.S.C. § 227, *et seq.* and asserts an entitlement to damages, in part, on that basis. *See* Am. Petition. ¶ 11.

7. In addition, Plaintiff asserts a claim for "Invading Plaintiff's Privacy," citing the Federal Gramm Leech Bliley Act, 15 U.S.C. § 6801(a), as the basis for this claim and asserts an entitlement to damages, in part, on that basis. *See* Am. Petition. ¶ 10

8. This Court has subject-matter jurisdiction over the Plaintiffs' TCPA and Invasion of Privacy claim pursuant to 28 U.S.C. § 1331.

9. This Court may also exercise supplemental jurisdiction over any pendent parties and any pendent state-law claims pursuant to 28 U.S.C. § 1367(a) because all of those claims are so related to Plaintiffs' federal statutory claims that they form part of the same case or controversy.

10. Therefore, this civil action may be removed to this Court pursuant to 28 U.S.C. § 1441(a) and (c).

11. Removal of this action is proper under 28 U.S.C. § 1446 because:

- a. this Notice of Removal is being filed within thirty (30) days of Defendant's receipt (through service or otherwise) of the Petition;
- b. this Notice of Removal is being filed within one (1) year of January 17, 2013, the date of commencement of the action for removal purposes;
- c. Defendant has not previously sought similar relief; and
- d. a copy of all process, pleadings, and orders served upon Defendant is attached as exhibits.

12. Venue for removal of this action to this Court is proper because it is the district court of the United States for the district and division in which the state civil action being removed is pending within the meaning of 28 U.S.C. § 1441 and § 1446(a).

13. Accordingly, this Court has original jurisdiction, and, pursuant to 28 U.S.C. §§ 1441 and 1446, removal of the above-styled state court action to this Court is proper.

14. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the District Court of Harris County, Texas, and notice also is being provided to Plaintiff.

15. Defendant reserves the right to amend or supplement this Notice of Removal.

16. A true and correct copy of this Notice of Removal will be served upon all parties of this action and the 270th District Court of Harris County, Texas promptly after the filing of this Notice, in accordance with the certificate set forth below and with the requirements of law. The clerk of the aforesaid State Court shall effect the removal and the State Court shall proceed no further unless the case is remanded, as provided by law.

WHEREFORE, Defendant Santander Consumer USA, Inc., respectfully requests that the above referenced action, originally filed in the 270th District Court of Harris County, Texas, be removed under 28 U.S.C. 1331, based on subject matter jurisdiction, to this Court pursuant to

28 U.S.C. § 1441.

Date: February 21, 2013

Respectfully submitted,

REED SMITH, LLP

/s/ Chris Watt

Chris Watt

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**ATTORNEY IN CHARGE FOR SANTANDER
CONSUMER USA, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of February, 2013 a true and correct copy of the foregoing was served by Certified Mail RRR to the following:

Mehdi Cherkaoui
3011 W. Cedar Sun
Katy, TX 77449

Pro se Plaintiff

/s/ Chris Watt

Chris Watt